

# **Exhibit 3**



**Freshfields Bruckhaus Deringer US LLP**

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**Via Email**

Julia Tarver Wood  
Trial Attorney  
Antitrust Division  
U.S. Department of Justice  
450 5th Street NW, Washington, D.C. 20530

**Washington**  
700 13th Street, NW  
10th Floor  
Washington, DC 20005-3960  
+1 202 777 4500 (Switchboard)  
+1 202 777 4545 (Direct)  
eric.mahr@freshfields.com  
www.freshfields.com

November 8, 2023

**Re: *United States, et al. v. Google LLC*, No. 1:23-cv-00108-LMB-JFA (E.D. Va.)**

Dear Julia:

I write further to our agreement to provide written responses in lieu of testimony in connection with Topics 25 and 26 (as narrowed) of Plaintiffs' 30(b)(6) Deposition Notice to Google LLC ("Google") dated August 9, 2023. Google reserves the right to supplement these responses as necessary.

**Topic 25**

Google agreed to provide (a) its Chat retention policies for the period from January 1, 2016 to the present (or, if no retention policy specific to Chat was in effect during parts of that period, its general document retention policy during those parts of that period); (b) a chart indicating when a litigation hold for the Investigation or Litigation was issued to each custodian; and (c) a written response on Topic 25(c), narrowed as follows: "whether, when, and in what circumstances Google suspended its 24-hour auto-delete policy for chat messages for chat messages related to this Investigation or Litigation."

With respect to subpart (a), **Appendix A** to this letter contains a chart identifying by Bates number Google's retention policies applicable to Google Chat for the period from January 1, 2016 to the present.

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With respect to subpart (b), **Appendix B** to this letter contains the responsive information.

With respect to subpart (c), the retention period for Google Chat depends on the history setting of a particular message. *See Appendix A.* Further, Google implemented a process on February 8, 2023, for custodians on legal hold in this matter, whereby all Google Chats, regardless of the subject matter of the discussion, were set to “history on” moving forward and automatically preserved for so long as the legal hold is in place.

### **Topic 26**

Pursuant to the parties’ agreement on Topic 26, and the court’s subsequent ruling, ECF No. 376, Google has agreed to provide a written response describing, based on a reasonable inquiry: (a) for each of the Covered Employees (as defined below): (i) whether the employee used Chat to discuss matters relevant to this case; and (ii) the employee’s Chat history setting at times when the employee discussed matters relevant to this case; and (b) any non-privileged direction or statements that Google provided to its employees about conducting chats with “history off.”

For purposes of Topic 26, “Covered Employees” means the 35 individuals whom Plaintiffs identified in their September 11, 2023 letter and are listed in **Appendix C**. Although defined as “Covered Employees,” Plaintiffs’ list comprises 26 current employees and 9 former employees.

Google has contacted each of the Covered Employees, of which 33 provided responsive information.<sup>1</sup> This letter reports information Google collected from the 33 Covered Employees.

#### **1. Topic 26(a)(i): Case-Relevant Google Chat Usage**

Out of the 33 Covered Employees who provided responsive information, 17 reported that it was not their regular practice to use Chat for substantive communications related to ad tech, and 16 reported sometimes using Chat for substantive communications related to ad tech between January 2014 and the present.<sup>2</sup>

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<sup>1</sup> Google made a reasonable inquiry and endeavored to obtain responsive information from all 35 Covered Employees. One former employee, through his counsel, declined to provide responsive information. Google is still working to obtain a response from one other Covered Employee and will provide a supplement to this letter as necessary.

<sup>2</sup> The Covered Employees that reported sometimes using Chat for substantive communications regarding ad tech are Jonathan Bellack, Brad Bender, Jerry Dischler, John “Duke” Dukellis, Jim Giles, Pooja Kapoor, Roshan Khan, Nitish Korula, Lisa Lehman, Max Loubser, Tobias Maurer, Payam Shodjai, Vlad Sinaniyev, Scott Spencer, Sam Temes, and Debbie Weinstein.

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Nine of the 16 Covered Employees recalled sometimes using Chat for substantive communications relating to ad tech after receiving a legal hold notice relating to this matter.<sup>3</sup>

2. Topic 26(a)(ii): Case-Relevant Chat History Setting

Of the nine Covered Employees who recalled having used Chat for substantive communications relating to ad tech after receiving a legal hold relating to this matter, one Covered Employee<sup>4</sup> reported that he regularly toggled the Chat history setting to “history on” when discussing matters related to a legal hold.

3. Topic 26(b): Non-Privileged Chat History Setting Direction or Statements

Topic 26(b) (as narrowed) seeks “any non-privileged direction or statements that Google provided to its employees about conducting chats with ‘history off.’” Google has made a good faith attempt, following a reasonable inquiry, to ascertain “direction or statements” about communicating via Chat with history off and identifies the following: Google’s retention policies (see Appendix A) provide information on how long Chat is retained, whether a message is sent with history on or history off. In a communications training previously provided to Google employees, a module regarding whether to send an email when angry or tired contained a multiple choice question; one (incorrect) answer was: “Don’t send the email. Chat ‘off the record’ via Hangouts instead.”

Sincerely,

  
Eric Mahr

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<sup>3</sup> The other seven Covered Employees had transitioned out of positions involving work on Google’s ad tech business and into positions in Alphabet, Inc. or Google business segments not involving ad tech before they received legal hold notices relevant to this case. These seven Covered Employees include: Jonathan Bellack (on legal hold October 4, 2019; transitioned from Director of Product Management, Publisher Ad Platforms at Google to Director of Product at Jigsaw (another subsidiary of Alphabet, Inc.) in January 2019), Jim Giles (on legal hold January 22, 2021; transitioned from Engineering Director, Google Ad Manager and AdSense to Engineering Director, Google Drive in January 2019), Pooja Kapoor (on legal hold October 4, 2019; transitioned from Head of Global Strategy, Programmatic, and Ecosystem Health to Head of GDPR & Data Trust in April 2018), Roshan Khan (on legal hold January 22, 2021; transitioned from Group Product Manager, DV360 to Group Product Manager, Android Auto in January 2020), Lisa Lehman (on legal hold January 22, 2021; transitioned from Strategic Partner Lead, News & Magazines to Strategic Partner Manager, Global News Product Partnerships in April 2018), Max Loubser (on legal hold January 22, 2021; transitioned from Senior Product Manager, Display & Video Advertising to Senior Product Manager, YouTube in May 2018), and Payam Shodjai (on legal hold January 22, 2021; transitioned from Senior Director, Product Management, Display and Video Ads to Senior Director, Product Management, Google Assistant in December 2019).

<sup>4</sup> Nitish Korula.

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**APPENDIX A****Retention policies applicable to Google Chat (January 1, 2016 to the present)**

<b>Policy</b>	<b>Time Period</b>	<b>Beginning Bates</b>
Gmail Retention Policy	August 21, 2015 - February 25, 2021	GOOG-AT-MDL-009709510
Google Chat Retention Policy	November 18, 2020 - February 25, 2021	GOOG-AT-MDL-009709520
Google Chat Retention Policy	February 26, 2021 - September 30, 2021	GOOG-AT-MDL-009709508
Google Chat Retention Policy	October 1, 2021 - December 7, 2021	GOOG-AT-MDL-009709522
Google Chat Retention Policy	December 8, 2021 - May 16, 2023	GOOG-AT-MDL-009709506
Google Chat Retention Policy	May 17, 2023 - Present (Current Policy)	GOOG-AT-MDL-009709518



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**APPENDIX B**

<b>Custodian Name</b>	<b>Date Hold Notice Issued<sup>5</sup></b>
Sergio Abreu	Feb 3, 2021
Daniel Alegre	June 2, 2020
Kate Alessi	Feb 3, 2021
Anthony Altimari	May 25, 2023
Ali Nasiri Amini	Feb 3, 2021
Vip Andleigh	Jan 22, 2021
Nikesh Arora	Dec 5, 2019
Ajay Bangla	May 25, 2023
Bethanie Baynes	Jan 22, 2021
Karen Aviram Beatty	Jan 22, 2021
Jonathan Bellack	Oct 4, 2019
Brad Bender	Oct 4, 2019
Glenn Berntson	Sept 20, 2022
David Besbris	Jan 22, 2021
Deepti Bhatnagar	Jan 22, 2021
Jason Bigler	Oct 4, 2019
Chetna Bindra	Jan 22, 2021
Jeff Birnbaum	Feb 3, 2021
Simon Bolger	May 25, 2023
Joan Braddi	Jan 22, 2021
Drew Bradstock	Jan 22, 2021
Amin Charaniya	Feb 3, 2021
Anthony Chavez	Jan 22, 2021

<sup>5</sup> A legal hold was implemented for some custodians after they left Google. For those custodians, we have provided the date that the hold was implemented.

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<b>Custodian Name</b>	<b>Date Hold Notice Issued<sup>5</sup></b>
Julie Chen	Feb 3, 2021
Susan Childs	Jan 22, 2021
Mary Ellen Coe	Jan 22, 2021
Josh Cohen	June 22, 2020
Christophe Combette	June 12, 2023
Matthew Conroy	Jan 22, 2021
Erin Corkins	May 25, 2023
Sam Cox	Oct 4, 2019
Marcel Crasmaru	Feb 3, 2021
Tim Craycroft	Sept 20, 2022
Jerry Dischler	Jan 22, 2021
Katie (Baxter) Dodson	May 25, 2023
Sean Downey	Jan 22, 2021
John "Duke" Dukellis	Jan 22, 2021
Sam Franklin	May 25, 2023
Rudy Galfi	Jan 22, 2021
Haskell Garon	Jan 22, 2021
Kristen Gil	Feb 3, 2021
Jim Giles	Jan 22, 2021
Richard Gingras	Jan 22, 2021
Chris Gklaros-Stavropoulos	Jan 22, 2021
Matthew Glotzbach	June 22, 2020
Eu-Jin Goh	Jul 26, 2023
Joanna Zimelis Goldblatt	Apr 3, 2023
Eve Goldman	Feb 3, 2021
David Goodman	Jan 22, 2021
Jerome Grateau	Jan 22, 2021

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<b>Custodian Name</b>	<b>Date Hold Notice Issued<sup>5</sup></b>
Anna Grodecka-Grad	Sept 26, 2023
Chip Hall	Jan 22, 2021
K. Marco Hardie	Apr 3, 2023
Donald Harrison	Oct 4, 2019
Sean Harrison	Apr 3, 2023
Rob Hazan	Aug 6, 2020
Joerg Heilig	Jan 29, 2021
Sissie Hsiao	Oct 4, 2019
Nirmal Jayaram	Jan 22, 2021
Darline Jean	June 12, 2023
Adam Juda	Jan 22, 2021
Bashar Kachachi	Jan 22, 2021
Kishore Kanakamedala	Feb 21, 2020
Pooja Kapoor	Oct 4, 2019
Roshan Khan	Jan 22, 2021
Woojin Kim	Jan 22, 2021
Jennifer Koester	Jan 22, 2021
Martin Kon	Feb 3, 2021
Rahul Kooverjee	May 25, 2023
Omid Kordestani	Feb. 4, 2020
Nitish Korula	Oct 4, 2019
Gabe Kronstadt	Feb 10, 2021
Suresh Kumar	June 2, 2020
Robert Kyncl	Jan 22, 2021
Sue Lai	Sept 25, 2023
Tript Singh Lamba	Jan 22, 2021
Chris LaSala	Jan 22, 2021



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<b>Custodian Name</b>	<b>Date Hold Notice Issued<sup>5</sup></b>
Lisa Lehman	Jan 22, 2021
George Levitte	Jan 22, 2021
Max Lin	Jan 22, 2021
Eisar Lipkovitz	June 22, 2020
Tim Lipus	Feb 23, 2023
Max Loubser	Jan 22, 2021
Tobias Maurer	Jan 22, 2021
Chris Maxcy	Jan 22, 2021
Stuart May	Jul 26, 2023
Ali Miller	Jan 22, 2021
Jason Miller	Feb 3, 2021
Giulio Minguzzi	May 3, 2023
David Mitby	Jan 22, 2021
Neal Mohan	Apr 27, 2023
Jessica Mok	Feb 23, 2023
Paul Muret	Jan 22, 2021
Elissa Murphy	Feb 3, 2021
Sagnik Nandy	Mar 8, 2021
Jon Newmuis	Jul 26, 2023
Rany Ng	Jan 22, 2021
Ali Nouri	June 14, 2023
Kristen O'Hara	June 12, 2023
Martin Pal	Jan 22, 2021
Thomas Pan	Jul 26, 2023
Aparna Pappu	Jan 22, 2021
Peentoo Patel	Sept 20, 2022
Bonnie Pericolosi	Jan 22, 2021

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<b>Custodian Name</b>	<b>Date Hold Notice Issued<sup>5</sup></b>
Igor Perisic	Oct 16, 2023
Shane Peros	Jan 22, 2021
Kirk Perry	Jan 22, 2021
Sundar Pichai	Oct 4, 2019
Barbara Piermont	Jan 22, 2021
Arthur Price	Feb 3, 2021
Prabhakar Raghavan	Oct 4, 2019
Alyssa Raiola	Apr 3, 2023
Sridhar Ramaswamy	Nov. 4, 2019
Vinay Rao	Feb 3, 2021
Vivek Rao	Jan 22, 2021
Rita Ren	May 23, 2023
Nicky Rettke	June 12, 2023
Sarah Rock	May 25, 2023
Dave Rolefson	Jan 22, 2021
Danielle Romain	Jan 22, 2021
Courtney Rose	May 25, 2023
Bryan Rowley	Jan 22, 2021
Nathalie Sajous	May 25, 2023
Karen Sauder	Mar 8, 2021
Erin Schaefer	Jan 29, 2021
Philipp Schindler	Oct 4, 2019
Mike Schulman	Oct 4, 2019
Jasper Seldin	Jan 22, 2021
Jayavel Shanmugasundaram	Jan 22, 2021
Vishal Sharma	Jan 22, 2021
Scott Sheffer	Feb 3, 2021

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<b>Custodian Name</b>	<b>Date Hold Notice Issued<sup>5</sup></b>
Alex Shellhammer	Jan 22, 2021
Lior Shenkar	Mar 3, 2022
Steven Shin	May 23, 2023
Payam Shodjai	Jan 22, 2021
Scott Silver	Jan 22, 2021
Vlad Sinaniyev	Jan 22, 2021
Selin Song	June 12, 2023
Scott Spencer	Jan 22, 2021
Jason Spero	Jan 22, 2021
Rahul Srinivasan	Jan 22, 2021
Vidhya Srinivasan	Jan 22, 2021
Sarah Stefaniu	Apr 3, 2023
Adam Stewart	Mar 8, 2021
Bonita Stewart	Oct 4, 2019
Gargi Sur	Jan 22, 2021
Dan Taylor	Jan 22, 2021
Sam Temes	Jan 22, 2021
Sneha Thomas	June 12, 2023
Glenn Thrope	Feb 23, 2021
Allan Thygesen	Jan 22, 2021
Christopher Tignor	June 14, 2023
John Tobler	Feb 3, 2021
Malte Ubl	Jan 22, 2021
Kai Umezawa	June 12, 2023
Shashi Upadhyay	June 12, 2023
Jyoti Vaidee	Jan 22, 2021
Marshall Vale	Jan 22, 2021

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<b>Custodian Name</b>	<b>Date Hold Notice Issued<sup>5</sup></b>
Jay VanDerzee	Mar 3, 2022
Hal Varian	Jan 22, 2021
Medha Vedaprakash	Jan 18, 2023
Casper Verhoofstad	May 25, 2023
Alok Verma	Jan 22, 2021
Luis Vilela	Feb 3, 2021
Madhu Vudali	Jan 22, 2021
Jason Washing	Jan 22, 2021
Debbie Weinstein	Jan 22, 2021
Mike Westervelt	May 25, 2023
Kristin Wiechmann	Jan 22, 2021
Susan Wojcicki	Oct 4, 2019
Noam Wolf	Oct 4, 2019
Meghan Zidar	May 25, 2023

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**APPENDIX C**

On September 11, 2023, Plaintiffs identified the following 35 employees as “Covered Employees” for Google’s written response to Topic 26 of Plaintiffs’ 30(b)(6) Notice<sup>6</sup>:

- 1) Jonathan Bellack\*
- 2) Brad Bender\*
- 3) Deepti Bhatnagar
- 4) Jason Bigler\*
- 5) Sam Cox\*
- 6) Jerry Dischler
- 7) Sean Downey
- 8) John “Duke” Dukellis
- 9) Jim Giles
- 10) Don Harrison
- 11) Jörg Heilig\*
- 12) Sissie Hsiao
- 13) Nirmal Jayaram
- 14) Pooja Kapoor
- 15) Sanjay Kapoor
- 16) Roshan Khan
- 17) Woojin Kim
- 18) Nitish Korula
- 19) Lisa Lehman
- 20) Max Loubser
- 21) Tobias Maurer
- 22) Paul Muret
- 23) Sagnik Nandy\*
- 24) Larry Page
- 25) Sundar Pichai
- 26) Shailesh Prakash
- 27) Prabhakar Raghavan
- 28) Sridhar Ramaswamy\*
- 29) Eric Schmidt\*
- 30) Payam Shodjai
- 31) Vlad Sinaniyev
- 32) Scott Spencer\*
- 33) Sam Temes
- 34) Debbie Weinstein
- 35) Susan Wojcicki

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<sup>6</sup> An asterisk (\*) denotes former Google employees as of September 11, 2023.